

THE CORPORATION OF THE CITY OF WINDSOR
Office of the City Solicitor - Building Department

**MISSION STATEMENT:**

"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"

Report Livelink No.: 15881 EI2012	Date of Report: April 12, 2012
Author's Name: Ann Kalinowski, Manager of By-law Enforcement	Date to Council: July 23, 2012
Author's Phone: 519 -255-6100 ext. 1931 Author's E-mail: akalinowski@city.windsor.on.ca	Classification #:

To: Mayor and Members of City Council

Subject: CQ10-2012 – Regarding Motorcycle Noise Emission

1. RECOMMENDATION: City Wide: X Ward(s):

That City Council RECEIVE FOR INFORMATION the following report as it relates to noise emissions from the operation of motor vehicles and motorcycles.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

On November 22, 2010 City Council adopted the following resolution:

M315-2010:

"That the report of the City Solicitor dated November 15, 2010 entitled "Noise Emission Standards and the use of Decibel Meters" BE RECEIVED; and that Council PETITION the Province through the Ontario Ministry of Transportation to develop legislation to identify acceptable noise levels for the motor vehicles and the methods for measuring the same; and further

That Police Services BE DIRECTED to provide a draft short and long term plan by the end of the first quarter of 2011 (March 31, 2011) to address excessive vehicle noise".

On April 2, 2012 Councillor Halberstadt raised Council Question

CQ10-2012:

"Asks for a report back to Council as a follow-up to the November 22, 2010 resolution of Council asking for information on legislation and noise by-law enforcement to prosecute violators of motorcycle noise emission standards through the use of illegal pipes as opposed to mufflers.

Ask that Ann Kalinowski, Manager of Compliance and Enforcement collaborate with Deputy Chief Jerome Brannagan to prepare that report. My preference would be that the report comes back to Council within a month's time because the spring and summer weather leads to the acceleration of motorcycle activity on city streets".

3. DISCUSSION:

At the November 22, 2010 City Council Meeting, Windsor Police Services were directed to provide a short term and long term plan by March 31, 2011 to address excessive vehicle noise. Windsor Police Service has initiated their short term plan by developing training sessions for field Officers highlighting sections of the Highway Traffic Act relative to excessive and unusual noise. The training sessions are due to be finished by early May, 2012 followed by a media release to educate the public. The long term plan is to wait until the Province of Ontario passes regulations under the Highway Traffic Act that provides consistent enforcement through the use of scientific equipment (decibel meters).

On December 9, 2010 the Deputy City Clerk sent a letter to the Honourable Kathleen Wynne requesting consideration and support to Council's request in M315-2010. To date, there has been no response back.

In June 2010, The City of Edmonton passed Canada's first by-law targeting excessive motorcycle noise as an amendment to the City's Community Standards By-law. The by-law established objective and measurable criteria that determined when a motorcycle emits a sound level that is likely to disturb the public. The amendment took place on July 1, 2010, allowing for fines of \$250.00 to anyone with a motorcycle louder than 92 decibels while idling and 96 decibels while the engine is revving. Edmonton Police members issued 115 tickets for excessive noise in 2010 with 55 resulting in not-guilty pleas.

Windsor Police Services, understanding that Edmonton has lost cases using sound meters for compromised factors such as back ground noise, will seek to control excessive motorcycle noise at this time under the Highway Traffic Act, R.S.O. 1990, c. H.8 Section 75. This provision makes it an offence to operate any motor vehicle or motor assisted bicycle without a muffler or with a certain type of modified muffler. In addition, it is an offence under the same section to cause a motor vehicle to make any unnecessary noise. Section 82 gives Police the authority to inspect motor vehicles by requiring the driver to stop and move to a safe location so that the vehicle and its parts can be examined.

As previously stated, Windsor Police Services will launch an awareness and enforcement campaign this summer with violators being charged under section 75 of the Highway Traffic Act of Ontario. The fine for violations of this section is \$110.00. Until the Highway Traffic Act is changed, decibel meters will not be purchased due to the problems other jurisdictions are having with this method of enforcement.

4. RISK ANALYSIS:

N/A

5. **FINANCIAL MATTERS:**

Windsor Police Services have not incurred any cost other than soft costs in the training of their members.

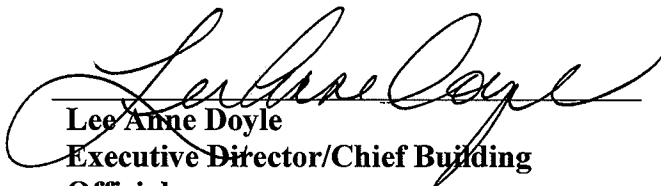
6. **CONSULTATIONS:**

Inspector Dave Cassady, Windsor Police Services
Deputy Chief Jerome Brannagan, Windsor Police Services


7. **CONCLUSION:**

Windsor Police Services will enforce noise emissions as it relates to vehicles and motorcycles under the Highway Traffic Act as it is currently written until the Province introduces changes to regulate motor vehicle noise using objective standards (decibel meters).

Administration recommends that City Council RECIEVE FOR INFORMATION this report on enforcement strategies to be used by Windsor Police Services.


Lee Anne Doyle
Executive Director/Chief Building
Official


George Wilkie
City Solicitor and Corporate Leader,
Economic Development and Public Safety


Ann Kalinowski
Manager of By-law Enforcement

AK/ak

APPENDICES:

No. 1 – November 22, 2010 Council Report

DEPARTMENTS/OTHERS CONSULTED:

NOTIFICATION: *AK apr 26 2012*

Name	Address	Email Address	Telephone	Fax
Inspector Dave Cassady	Windsor Police Services	dcassady@police.windsor.on.ca	519-255-6700 x 4210	
Deputy Chief Jerome Brannagan	Windsor Police Services	jbrannagan@police.windsor.on.ca	519-255-6700	

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Item No.

RECEIVED

THE CORPORATION OF THE CITY OF WINDSOR
Office of the City Solicitor - Building Department



MISSION STATEMENT:

"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"

LiveLink REPORT #: 14981	Report Date: November 15, 2010
Author's Name: Ann Kalinowski, Manager of Compliance and Enforcement	Date to Council: November 22, 2010
Author's Phone: 519 255-6100 ext. 1931	Classification #: Communication
Author's E-mail: akalinowski@city.windsor.on.ca	

TO: Mayor and Members of City Council

SUBJECT: Noise Emission Standards and the use of Decibel Meters

**COUNCIL AGENDA
COMMUNICATIONS
NOV 22 2010**

NO. 4

1. RECOMMENDATION:

City Wide: ☒ Ward(s): _____

That City Council RECEIVE FOR INFORMATION the following report as it relates to noise emission standards and the use of decibel meters, in response to CR 366/2010.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

On October 4, 2010 City Council passed the following resolution:

CR366/2010

That the report of the Chief Building Official dated August 16, 2010 entitled "A Review of the City of Edmonton's By-law Number 14600" BE REFERRED to administration to allow for clarification in reference to the noise emission standards and the use of sound meters, and whether or not the Province is addressing this issue.

3. DISCUSSION:

Noise emission standards can be found under the Highway Traffic Act as well as City of Windsor By-law 6716, A By-law to Regulate the Emission of Sounds. The relevant sections provide as follows:

Ontario Highway Traffic Act:

75. (1) Every motor vehicle or motor assisted bicycle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, and no person shall use a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon a motor vehicle or motor assisted bicycle.

By-law 6716, A By-law Respecting the Emission of Sounds:

2. General Provisions

No person within the boundary of the municipality shall emit or cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a point of reception:

(3) The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation;

There does not seem to be any movement towards introducing a Bill to amend the Highway Traffic Act for the purpose of providing Police with an enforcement tool to regulate vehicle noise through decibel meters. (Bill: A proposed Act that is before the Legislative Assembly for consideration. In order for a bill to be enacted and become an Act, it must receive three readings and be passed by the Legislative Assembly and then receive Royal Assent). The City of Windsor Emission of Sounds By-law and the Provincial Highway Traffic Act both regulate noise by using subjective standards.

Windsor Police Services and Administration are not aware of any municipality in Ontario currently enforcing noise emission standards with sound meters for Highway Traffic Offences. Although Windsor Police Services welcomes the use of scientific equipment (sound meters), this issue needs to be addressed at the Provincial level and consistently (e.g., motorcyclists and boom box). Windsor Police Services will continue their enforcement using existing legislation until such time as the Province of Ontario tackles this issue and passes regulations to provide consistent standards and enforcement across the Province.

4. FINANCIAL MATTERS:

N/A


5. CONSULTATIONS:


Susan Hirota, Legal Counsel
Didi Johnston, Supervisor of Compliance and Enforcement
Deputy Chief Jerome Brannagan, Windsor Police Services
Superintendent George McPhee, Windsor Police Services
Inspector Bob Labute, Windsor Police Services
Eric Theuser, Edmonton Police Services


6. CONCLUSION:

Windsor Police Services will continue to enforce noise emissions as it relates to vehicles and motorcycles under the current Emission of Sounds By-law and Highway Traffic Act until the Province introduces changes to regulate motor vehicle noise using objective standards (decibel meters).

Administration recommends that City Council RECIEVE FOR INFORMATION this report on noise emission standards and the use of objective standards.


Ann Kalinowski
Manager of Compliance and
Enforcement


Lee Anne Doyle
Chief Building Official


Valerie Critchley
City Clerk/Licence Commissioner


for George Wilkki
City Solicitor

AK/lh

APPENDICES: N/A

DEPARTMENTS/OTHERS CONSULTED:

Name:

Phone #: 519 ext.

NOTIFICATION :

Deputy Chief Jerome Brannagan	Windsor Police Services P.O. Box 60 Windsor ON N9A 6J5	jbrannagan@police.windsor.on.ca	519-255-6700	
Superintendent George McPhee	Windsor Police Services P.O. Box 60 Windsor ON N9A 6J5	gmcphoe@police.windsor.on.ca	519-255-6700	
Inspector Bob Labute	Windsor Police Services P.O. Box 60 Windsor ON N9A 6J5	rlabute@police.windsor.on.ca	519-255-6700	
Hospitality Resource Panel	474 Ouellette Ave, Windsor, ON N9A 1B2	hrp@downtownwindsor.ca	519-919-8112	

11/19/2010

NOTIFICATION :				
Chris Edwards	474 Ouellette Ave, Windsor, ON N9A 1B2	cedwards@downtownwindsor.ca	519-252-5723	252-6817
Louis N. Gouin	980 St. Luke Rd. Windsor, ON N8Y 4Y8	fordcitybia@sympatico.ca	519-254-4111	735-6421
Joan Charette	268 Moy Ave. Windsor, ON N9A 2N2	walkervillebia@cogeco.ca	226-346-9242	973-8762 (call prior to sending)
Bridget Scheuerman	963 Windermere Rd. Windsor, ON N8Y 3E5	bscheuerman@cogeco.ca	519-973-0251	253-0782
Mary Ann Cuderman	3118 Sandwich St. Windsor, ON N9C 1A6	macuderman@cogeco.ca	519-258-0361	258-5209
Arnie Blaine	1647 Ottawa Street Windsor, ON N8Y 1R2	n/a	519-252-9521	973-3922
Michele Moro	4620 Wyandotte St. E. Windsor, ON N8Y 1H5	Bella_vino@bellnet.ca	519-988-1188	988-0413
Tessa Mancini Ruggirello	c/o Fiesta Flowers 884 Erie Street E. Windsor, ON N9A 3Y6	tmancini@gmail.com	519-999-1889	n/a